

COUNTY OF YORK

MEMORANDUM

DATE: September 18, 2002 (BOS Mtg. 10/1/02)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. ZM-68-02 (conditional), Ned's Marine & Auto Center

ISSUE

This application is a request to amend the York County Zoning Map by reclassifying from R13 (High-density residential) to conditional GB (General Business) approximately 2.16 acres located on the rear portion of the property located at 2113 and 2115 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 37-7 and 37-7A. The applicant has voluntarily proffered to construct six-foot (6') privacy fences along both the northern and southern property lines to provide a visual screen between the storage area to the rear of the parcel and adjacent residential parcels.

DESCRIPTION

- ? Property Owner: Lewis N. Lipscomb, Jr. and Audrey S. Lipscomb
- ? Location: 2115 George Washington Memorial Highway (Route 17)
- ? Area: 2.85 acres
- ? Frontage: 158.2' on Route 17
- ? Utilities: Public water and sewer
- ? Topography: Flat
- ? 2015 Land Use Map Designation: General Business and Medium-Density Residential
- ? Zoning Classification: General Business along the frontage and R13 (High-density single-family residential) to the rear
- ? Existing Development: Ned's Marine & Auto Center (boat sales, service, and repair and automobile sales)
- ? Surrounding Development:
 - North: Commercial building, single-family detached homes; Byrd Lane beyond
 - East: English Motors and Blackie's Used Auto Parts (across Route 17)
 - South: Single-family detached homes, Engine Outlet: Oak Street beyond

West: Single-family detached home and an undeveloped 8.1-acre parcel

? Proposed Development: Storage of boats, trailers, and associated parts and equipment

CONSIDERATIONS/CONCLUSIONS

1. Ned's Marine & Auto Center is a boat sales, service, and repair establishment that has been in operation on Route 17 since 1991. The business also conducts a limited number of automobile sales, but no auto repair or service is conducted. It is located on property consisting of two adjacent parcels totaling 2.85 acres in area. The property is zoned GB (General Business) to an average depth of approximately 195 feet and R13 beyond. The GB-zoned portion of the site consists of approximately 0.69 acre, and the remaining 2.16 acres are zoned R13. The Comprehensive Plan designates the front portion of this property, like most of the property along Route 17, for General Business development, while the rear is designated for Medium-Density Residential development in recognition of existing single-family detached homes in the area.
2. When the applicant submitted his original site plan to the County in 1989, the property was zoned CG (General Commercial) along the front and R12 to the rear. Because the Zoning Ordinance required a 25-foot transitional buffer between these two zoning districts, the applicant was required under the current zoning to maintain a buffer between the front and rear portions of his property, and such a buffer was depicted on the applicant's original site plan, which was approved in 1989. In 2001 it came to the attention of the County's Division of Development and Compliance that the buffer had been removed without authorization and that boats and trailers were stored illegally on the residentially zoned portion of his property. Accordingly, the applicant was notified of a zoning violation, and directed to remove the encroachment into the residential portion of the property and to restore the required buffer. Instead, he has submitted this application to request that the zoning boundary be adjusted. Enforcement of the violation has been held in abeyance pending the outcome of this application.
3. Route 17 is the County's main commercial corridor, and various auto-related uses surround the property, including auto repair, new and used auto parts dealers, and junkyards. However, the portion of the property proposed for rezoning is surrounded by fifteen (15) single-family detached homes that are directly adjacent. The proximity to residential development warrants close consideration of the potential impacts of increasing the commercial depth of the property on its neighbors.
4. As part of this application, the applicant has voluntarily proffered to construct six-foot (6') privacy fences parallel to both the northern and southern boundaries of the property to provide a visual screen between the adjacent residences and any boat and trailer storage areas. He has also proffered that if any additional clearing were to take place further back on the property, the fences would be extended accordingly. In addition, under current Zoning Ordinance standards a 17.5-foot transitional buffer would be required between the fences and adjacent residential properties, giving the neighboring homeowners a more pleasant view. No storage could occur within these

buffer areas, which would have to be landscaped with a prescribed combination of trees and shrubs. Most of the property is densely wooded, although there are some areas where additional plantings will be required in order to meet the terms of the Zoning Ordinance. A Type 35 buffer is typically required between the GB and R13 zoning districts, but since both the subject property and the adjacent properties to the north and south have been previously developed, the applicant is only required to provide half the buffer (17.5 feet) on his side of the property lines. The buffers and fences would reduce the visibility of the boats from adjacent properties as well as any noise impacts associated with the moving of boats. Under the existing R13 zoning, no transitional buffer is required between the subject property and adjacent residences. The applicant would be free, should he choose to do so, to remove much of the existing vegetation and leave at most just a ten-foot (10') landscape yard with fewer trees and shrubs than would be required for a transitional buffer. However, it should also be noted that no storage could occur beyond the current zoning district boundary (i.e., approximately 195 west of Route 17). Based on a recent site inspection and aerial photography, the boats appear to be – or to have been – stored up to 150 deeper than the zoning allows, visible from at least five (5) adjacent residential properties. The applicant has no plans for additional construction on the property, and as noted in his proffer statement, he will use this area for storage of boats, trailers, etc. Since the proffered conditions would run with the land, they would apply not just to the applicant but to any future property owners as well.

It is interesting to note that although the applicant will be required to screen his boats and trailers from view of adjacent homes if this application is approved, the adjacent homeowners can legally park such vehicles in their own rear yards with no screening whatsoever. Pursuant to Section 24.1-271(h) of the Zoning Ordinance, backyard parking, and storage of boats and boat trailers – as well as recreational vehicles, motor homes, utility trailers, horse vans, etc., – is permitted as a matter of right in conjunction with a residential use, and there is no requirement that such vehicles be screened or buffered in any way.

5. The residentially zoned portion of the subject parcel is sandwiched between two residential developments, is only 150 feet wide, and has no road access. As such, it has little realistic potential for residential development. It is theoretically possible – but highly improbable – that Oak Street (which is a 50-foot right-of-way) could be extended 150-200 feet in a northerly direction through the adjacent parcel to the west to provide access to the rear portion of the subject parcel, but the lot yield would be so low as to make such a development scenario prohibitively expensive. In essence, the R13 zoning prevents the applicant from having any practical use of 76% of his property.
6. The County's Office of Economic Development has reviewed this request and expressed its support. Noting that the Route 17 corridor is a difficult area for commercial development because of its lack of depth and adjacent residential development, the Executive Director has opined that the application will facilitate good business growth in a manner that will minimize any negative impacts on adjacent homes.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its meeting on September 11 and, subsequent to conducting a public hearing at which four citizens spoke in opposition to the application, voted 6:1 (Mr. Barba dissenting) to recommend denial. Concerns expressed both by the citizens and by various members of the Commission, dealt with the proximity of the boat storage area to residential development and its visibility from adjacent homes.

COUNTY ADMINISTRATOR RECOMMENDATION

I share some of the concerns expressed by the Planning Commission and several adjacent property owners about the potential visual impacts of boat storage on neighboring residences. However, these impacts can be mitigated with appropriate fencing and landscaping. Rezoning the property would allow the applicant to make use of land that has little potential for residential development, and the proffered fence and the 17.5-foot buffer would screen views of boats, trailers, etc. – which is the intended use of the subject area – from the adjacent homes on either side of the property, at least at ground level. It is important to note that the County's requirements for fencing and buffering between residential and commercial uses were never intended to screen views from second-story windows of adjacent homes, and it would not be possible to do so.

I am also concerned about the extreme depth of the property (840.9 feet) and its proximity to existing residential development, and I believe it would be unwise to extend the GB zoning to encompass the entire property in the absence of a specific plan showing how the rear portion will be used. However, I believe it would be reasonable to permit some expansion of the commercial use of the property provided that it is adequately screened from adjacent homes. Accordingly, I recommend that the Board approve a modified version of the applicant's request by extending the GB zoning approximately 280 feet to a depth of 475 feet (measured from the right-of-way line for Route 17) to encompass the cleared area behind the existing privacy fence. This would increase the applicant's commercially zoned property by almost an acre (43,512 square feet), allowing him to legally store boats, trailers, and equipment – screened and buffered – on that portion of the property that has already been cleared, thus enabling him to make better use of his land while protecting the rights of his residential neighbors to enjoy the use of their property. In addition, this would provide a commercial depth that is more consistent with other properties along the Route 17 corridor than is either the current zoning or the applicant's requested zoning. Since the front portion of the property has been lawfully developed while the rear portion remains wooded, the Type 35 (35') transitional buffer requirement between the GB and R13 portions of the property can be met entirely on the R13 portion with existing vegetation. For these reasons, I recommend adoption of proposed Ordinance No. 02-19.

Carter/3337

Attachments

- ? Excerpts of unapproved Planning Commission Minutes, September 11, 2002
- ? Zoning Map
- ? Survey Plat
- ? Proffer Statement
- ? Proposed Ordinance No. 02-19